

REFERENCE TITLE: CORP; Arizona state hospital employees

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

## HB 2029

Introduced by  
Representatives Thrasher, McClure, Schapira, Sinema, Senator O'Halleran:  
Representative Ulmer

### AN ACT

AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 87, SECTION 5; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 87, SECTION 6; AMENDING SECTIONS 38-893 AND 38-902, ARIZONA REVISED STATUTES; REPEALING LAWS 2007, CHAPTER 261, SECTION 17; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 38-881, Arizona Revised Statutes, as amended by  
3 Laws 2007, chapter 87, section 5, is amended to read:  
4 38-881. Definitions  
5 In this article, unless the context otherwise requires:  
6 1. "Accidental disability" means a physical or mental condition that  
7 the local board finds totally and permanently prevents an employee from  
8 performing a reasonable range of duties within the employee's department, was  
9 incurred in the performance of the employee's duties and was the result of  
10 any of the following:  
11 (a) Physical contact with inmates, prisoners, parolees or persons on  
12 probation.  
13 (b) Responding to a confrontational situation with inmates, prisoners,  
14 parolees or persons on probation.  
15 (c) A job related motor vehicle accident while on official business  
16 for the employee's employer. A job related motor vehicle accident does not  
17 include an accident that occurs on the way to or from work. Persons found  
18 guilty of violating a personnel rule, a rule established by the employee's  
19 employer or a state or federal law in connection with a job related motor  
20 vehicle accident do not meet the conditions for accidental disability.  
21 2. "Accumulated member contributions" means the sum of all member  
22 contributions deducted from a member's salary and paid to the fund, plus  
23 member contributions transferred to the fund by another retirement plan  
24 covering public employees of this state, plus previously withdrawn  
25 accumulated member contributions which are repaid to the fund in accordance  
26 with this article, minus any benefits paid to or on behalf of a member.  
27 3. "Alternate payee" means the spouse or former spouse of a  
28 participant as designated in a domestic relations order.  
29 4. "Alternate payee's portion" means benefits that are payable to an  
30 alternate payee pursuant to a plan approved domestic relations order.  
31 5. "Average monthly salary" means one-thirty-sixth of the aggregate  
32 amount of salary that is paid a member by a participating employer during a  
33 period of thirty-six consecutive months of service in which the member  
34 received the highest salary within the last one hundred twenty months of  
35 service. Average monthly salary means the aggregate amount of salary that is  
36 paid a member divided by the member's months of service if the member has  
37 less than thirty-six months of service. In the computation under this  
38 paragraph, a period of nonpaid or partially paid industrial leave shall be  
39 considered based on the salary the employee would have received in the  
40 employee's job classification if the employee was not on industrial leave.  
41 6. "Beneficiary" means an individual who is being paid or who has  
42 entitlement to the future payment of a pension on account of a reason other  
43 than the individual's membership in the retirement plan.  
44 7. "Claimant" means a member, beneficiary or estate that files an  
45 application for benefits with the retirement plan.

1           8. "Credited service" means credited service transferred to the  
2 retirement plan from another retirement system or plan for public employees  
3 of this state, plus those compensated periods of service as a member of the  
4 retirement plan for which member contributions are on deposit in the fund.

5           9. "Cure period" means the ninety-day period in which a participant or  
6 alternate payee may submit an amended domestic relations order and request a  
7 determination, calculated from the time the plan issues a determination  
8 finding that a previously submitted domestic relations order did not qualify  
9 as a plan approved domestic relations order.

10          10. "Designated position" means:

11           (a) For a county:

12           (i) A county detention officer.

13           (ii) A nonuniformed employee of a sheriff's department whose primary  
14 duties require direct contact with inmates.

15           (b) For the state department of corrections and the department of  
16 juvenile corrections, only the following specifically designated positions:

17           (i) Food service.

18           (ii) Nursing personnel.

19           (iii) Corrections physician assistant.

20           (iv) Therapist.

21           (v) Corrections dental assistant.

22           (vi) Hygienist.

23           (vii) Corrections medical assistant.

24           (viii) Correctional service officer, including assistant deputy  
25 warden, deputy warden, warden and superintendent.

26           (ix) State correctional program officer.

27           (x) Parole or community supervision officers.

28           (xi) Investigators.

29           (xii) Teachers.

30           (xiii) Institutional maintenance workers.

31           (xiv) Youth corrections officer.

32           (xv) Youth program officer.

33           (xvi) Behavioral health treatment unit managers.

34           (xvii) The director and assistant directors of the department of  
35 juvenile corrections and the superintendent of the state educational system  
36 for committed youth.

37           (xviii) The director, deputy directors and assistant directors of the  
38 state department of corrections.

39           (xix) Other positions designated by the local board of the state  
40 department of corrections or the local board of the department of juvenile  
41 corrections pursuant to section 38-891, subsection E.

42           (c) For a city or town, a city or town detention officer.

43           (d) For an employer of an eligible group as defined in section 38-842,  
44 full-time dispatchers.

1 (e) For the judiciary, probation, surveillance and juvenile detention  
2 officers.

3 (f) FOR THE DEPARTMENT OF HEALTH SERVICES, ONLY THE FOLLOWING  
4 SPECIFICALLY DESIGNATED POSITIONS AT ALL UNITS OF THE ARIZONA STATE HOSPITAL  
5 IF THE PERSON EMPLOYED HAS ROUTINE CONTACT WITH PATIENTS:

- 6 (i) PSYCHOLOGICAL NURSE.
- 7 (ii) PSYCHIATRIST.
- 8 (iii) PSYCHOLOGICAL SOCIAL WORKER.
- 9 (iv) SECURITY OFFICER.
- 10 (v) INSTITUTIONAL LICENSED PRACTICAL NURSE.
- 11 (vi) ADOLESCENT TREATMENT SPECIALIST.
- 12 (vii) RECREATIONAL THERAPIST.
- 13 (viii) PSYCHOLOGY ASSOCIATE.
- 14 (ix) HEALTH SERVICES PSYCHOLOGIST.
- 15 (x) MEDICAL RECORDS TECHNICIAN.
- 16 (xi) DISPATCHER.
- 17 (xii) CHAPLAIN.
- 18 (xiii) THERAPY TECHNICIAN.
- 19 (xiv) BUILDING MAINTENANCE TECHNICIAN.
- 20 (xv) DENTIST.
- 21 (xvi) SOCIAL WORKER.
- 22 (xvii) PHYSICIAN.
- 23 (xviii) HEALTH SERVICES PROGRAM MANAGER.
- 24 (xix) DENTAL ASSISTANT.
- 25 (xx) PSYCHOLOGICAL NURSING SHIFT SUPERVISOR.
- 26 (xxi) OCCUPATIONAL THERAPIST.

27 11. "Determination" means a written document that indicates to a  
28 participant and alternate payee whether a domestic relations order qualifies  
29 as a plan approved domestic relations order.

30 12. "Determination period" means the ninety-day period in which the  
31 plan must review a domestic relations order that is submitted by a  
32 participant or alternate payee to determine whether the domestic relations  
33 order qualifies as a plan approved domestic relations order, calculated from  
34 the time the plan mails a notice of receipt to the participant and alternate  
35 payee.

36 13. "Domestic relations order" means an order of a court of this state  
37 that is made pursuant to the domestic relations laws of this state and that  
38 creates or recognizes the existence of an alternate payee's right to, or  
39 assigns to an alternate payee the right to, receive a portion of the benefits  
40 payable to a participant.

41 14. "Employee" means a person determined by the local board to be  
42 employed by a participating employer in a designated position.

43 15. "Employer" means an agency or department of this state or a  
44 political subdivision of this state which has one or more employees in a  
45 designated position.

- 1           16. "Fund" means the corrections officer retirement plan fund.
- 2           17. "Fund manager" means the fund manager of the public safety  
3 personnel retirement system.
- 4           18. "Juvenile detention officer" means a juvenile detention officer  
5 responsible for the direct custodial supervision of juveniles who are  
6 detained in a county juvenile detention center.
- 7           19. "Local board" means the retirement board of the employer that  
8 consists of persons appointed or elected to administer the plan as it applies  
9 to the employer's members in the plan.
- 10          20. "Member" means any employee who meets all of the following  
11 qualifications:
- 12           (a) Who is a full-time paid person employed by a participating  
13 employer in a designated position.
- 14           (b) Who is receiving salary for personal services rendered to a  
15 participating employer or would be receiving salary except for an authorized  
16 leave of absence.
- 17           (c) Whose customary employment is at least forty hours each week and  
18 for more than six months in a calendar year.
- 19          21. "Normal retirement date" means the first day of the calendar month  
20 immediately following an employee's completion of twenty years of service or,  
21 in the case of a dispatcher, twenty-five years of service, the employee's  
22 sixty-second birthday and completion of ten years of service or the month in  
23 which the sum of the employee's age and years of credited service equals  
24 eighty.
- 25          22. "Notice of receipt" means a written document that is issued by the  
26 plan to a participant and alternate payee and that states that the plan has  
27 received a domestic relations order and a request for a determination that  
28 the domestic relations order is a plan approved domestic relations order.
- 29          23. "Participant" means a member who is subject to a domestic relations  
30 order.
- 31          24. "Participant's portion" means benefits that are payable to a  
32 participant pursuant to a plan approved domestic relations order.
- 33          25. "Participating employer" means an employer ~~which~~ THAT the fund  
34 manager has determined to have one or more employees in a designated position  
35 or a county, city, ~~or~~ town ~~which~~ OR DEPARTMENT OF THIS STATE THAT has entered  
36 into a joinder agreement pursuant to section 38-902.
- 37          26. "Pension" means a series of monthly payments by the retirement  
38 plan.
- 39          27. "Personal representative" means the personal representative of a  
40 deceased alternate payee.
- 41          28. "Plan approved domestic relations order" means a domestic relations  
42 order that the plan approves as meeting all the requirements for a plan  
43 approved domestic relations order as otherwise prescribed in this article.

1           29. "Probation or surveillance officer" means an officer appointed  
2 pursuant to section 8-203, 12-251 or 12-259 but does not include other  
3 personnel, office assistants or support staff.

4           30. "Retired member" means an individual who is being paid a pension on  
5 account of the individual's membership in the retirement plan.

6           31. "Retirement" means termination of employment after a member has  
7 fulfilled all requirements for a pension.

8           32. "Retirement plan" or "plan" means the corrections officer  
9 retirement plan established by this article.

10          33. "Salary" means the base salary, shift differential pay and holiday  
11 pay paid a member in a designated position for personal services rendered to  
12 a participating employer on a regular monthly, semimonthly or biweekly  
13 payroll basis. Salary includes amounts that are subject to deferred  
14 compensation or tax shelter agreements. Salary does not include payment for  
15 any remuneration or reimbursement other than as prescribed by this paragraph.  
16 For the purposes of this paragraph, "base salary" means the amount of  
17 compensation each member is regularly paid for personal services rendered to  
18 an employer before the addition of any extra monies, including overtime pay,  
19 shift differential pay, holiday pay, fringe benefit pay and similar extra  
20 payments.

21          34. "Segregated funds" means the amount of benefits that would  
22 currently be payable to an alternate payee pursuant to a domestic relations  
23 order under review by the plan, or a domestic relations order submitted to  
24 the plan that failed to qualify as a plan approved domestic relations order,  
25 if the domestic relations order were determined to be a plan approved  
26 domestic relations order.

27          35. "Service" means employment rendered to a participating employer as  
28 an employee in a designated position. Any absence that is authorized by an  
29 employer, including any periods during which the employee is on an employer  
30 sponsored long-term disability program, is considered as service if the  
31 employee returns or is deemed by the employer to have returned to a  
32 designated position within the period of the authorized absence.

33          36. "Total and permanent disability" means a physical or mental  
34 condition that is not an accidental disability, that the local board finds  
35 totally and permanently prevents a member from engaging in any gainful  
36 employment and that is the direct and proximate result of the member's  
37 performance of the member's duty as an employee of a participating employer.

38          Sec. 2. Section 38-881, Arizona Revised Statutes, as amended by Laws  
39 2007, chapter 87, section 6, is amended to read:

40          38-881. Definitions

41          In this article, unless the context otherwise requires:

42          1. "Accidental disability" means a physical or mental condition that  
43 the local board finds totally and permanently prevents an employee from  
44 performing a reasonable range of duties within the employee's department, was

1 incurred in the performance of the employee's duties and was the result of  
2 any of the following:

3 (a) Physical contact with inmates, prisoners, parolees or persons on  
4 probation.

5 (b) Responding to a confrontational situation with inmates, prisoners,  
6 parolees or persons on probation.

7 (c) A job related motor vehicle accident while on official business  
8 for the employee's employer. A job related motor vehicle accident does not  
9 include an accident that occurs on the way to or from work. Persons found  
10 guilty of violating a personnel rule, a rule established by the employee's  
11 employer or a state or federal law in connection with a job related motor  
12 vehicle accident do not meet the conditions for accidental disability.

13 2. "Accumulated member contributions" means the sum of all member  
14 contributions deducted from a member's salary and paid to the fund, plus  
15 member contributions transferred to the fund by another retirement plan  
16 covering public employees of this state, plus previously withdrawn  
17 accumulated member contributions which are repaid to the fund in accordance  
18 with this article, minus any benefits paid to or on behalf of a member.

19 3. "Alternate payee" means the spouse or former spouse of a  
20 participant as designated in a domestic relations order.

21 4. "Alternate payee's portion" means benefits that are payable to an  
22 alternate payee pursuant to a plan approved domestic relations order.

23 5. "Average monthly salary" means one-thirty-sixth of the aggregate  
24 amount of salary that is paid a member by a participating employer during a  
25 period of thirty-six consecutive months of service in which the member  
26 received the highest salary within the last one hundred twenty months of  
27 service. Average monthly salary means the aggregate amount of salary that is  
28 paid a member divided by the member's months of service if the member has  
29 less than thirty-six months of service. In the computation under this  
30 paragraph, a period of nonpaid or partially paid industrial leave shall be  
31 considered based on the salary the employee would have received in the  
32 employee's job classification if the employee was not on industrial leave.

33 6. "Beneficiary" means an individual who is being paid or who has  
34 entitlement to the future payment of a pension on account of a reason other  
35 than the individual's membership in the retirement plan.

36 7. "Claimant" means a member, beneficiary or estate that files an  
37 application for benefits with the retirement plan.

38 8. "Credited service" means credited service transferred to the  
39 retirement plan from another retirement system or plan for public employees  
40 of this state, plus those compensated periods of service as a member of the  
41 retirement plan for which member contributions are on deposit in the fund.

42 9. "Cure period" means the ninety-day period in which a participant or  
43 alternate payee may submit an amended domestic relations order and request a  
44 determination, calculated from the time the plan issues a determination

1 finding that a previously submitted domestic relations order did not qualify  
2 as a plan approved domestic relations order.

3 10. "Designated position" means:

4 (a) For a county:

5 (i) A county detention officer.

6 (ii) A nonuniformed employee of a sheriff's department whose primary  
7 duties require direct contact with inmates.

8 (b) For the state department of corrections and the department of  
9 juvenile corrections, only the following specifically designated positions:

10 (i) Food service.

11 (ii) Nursing personnel.

12 (iii) Corrections physician assistant.

13 (iv) Therapist.

14 (v) Corrections dental assistant.

15 (vi) Hygienist.

16 (vii) Corrections medical assistant.

17 (viii) Correctional service officer, including assistant deputy  
18 warden, deputy warden, warden and superintendent.

19 (ix) State correctional program officer.

20 (x) Parole or community supervision officers.

21 (xi) Investigators.

22 (xii) Teachers.

23 (xiii) Institutional maintenance workers.

24 (xiv) Youth corrections officer.

25 (xv) Youth program officer.

26 (xvi) Behavioral health treatment unit managers.

27 (xvii) The director and assistant directors of the department of  
28 juvenile corrections and the superintendent of the state educational system  
29 for committed youth.

30 (xviii) The director, deputy directors and assistant directors of the  
31 state department of corrections.

32 (xix) Other positions designated by the local board of the state  
33 department of corrections or the local board of the department of juvenile  
34 corrections pursuant to section 38-891, subsection E.

35 (c) For a city or town, a city or town detention officer.

36 (d) For an employer of an eligible group as defined in section 38-842,  
37 full-time dispatchers.

38 (e) For the judiciary, probation, surveillance and juvenile detention  
39 officers.

40 (f) FOR THE DEPARTMENT OF HEALTH SERVICES, ONLY THE FOLLOWING  
41 SPECIFICALLY DESIGNATED POSITIONS AT ALL UNITS OF THE ARIZONA STATE HOSPITAL  
42 IF THE PERSON EMPLOYED HAS ROUTINE CONTACT WITH PATIENTS:

43 (i) PSYCHOLOGICAL NURSE.

44 (ii) PSYCHIATRIST.

45 (iii) PSYCHOLOGICAL SOCIAL WORKER.

- 1 (iv) SECURITY OFFICER.
- 2 (v) INSTITUTIONAL LICENSED PRACTICAL NURSE.
- 3 (vi) ADOLESCENT TREATMENT SPECIALIST.
- 4 (vii) RECREATIONAL THERAPIST.
- 5 (viii) PSYCHOLOGY ASSOCIATE.
- 6 (ix) HEALTH SERVICES PSYCHOLOGIST.
- 7 (x) MEDICAL RECORDS TECHNICIAN.
- 8 (xi) DISPATCHER.
- 9 (xii) CHAPLAIN.
- 10 (xiii) THERAPY TECHNICIAN.
- 11 (xiv) BUILDING MAINTENANCE TECHNICIAN.
- 12 (xv) DENTIST.
- 13 (xvi) SOCIAL WORKER.
- 14 (xvii) PHYSICIAN.
- 15 (xviii) HEALTH SERVICES PROGRAM MANAGER.
- 16 (xix) DENTAL ASSISTANT.
- 17 (xx) PSYCHOLOGICAL NURSING SHIFT SUPERVISOR.
- 18 (xxi) OCCUPATIONAL THERAPIST.

19 11. "Determination" means a written document that indicates to a  
20 participant and alternate payee whether a domestic relations order qualifies  
21 as a plan approved domestic relations order.

22 12. "Determination period" means the ninety-day period in which the  
23 plan must review a domestic relations order that is submitted by a  
24 participant or alternate payee to determine whether the domestic relations  
25 order qualifies as a plan approved domestic relations order, calculated from  
26 the time the plan mails a notice of receipt to the participant and alternate  
27 payee.

28 13. "Domestic relations order" means an order of a court of this state  
29 that is made pursuant to the domestic relations laws of this state and that  
30 creates or recognizes the existence of an alternate payee's right to, or  
31 assigns to an alternate payee the right to, receive a portion of the benefits  
32 payable to a participant.

33 14. "Employee" means a person determined by the local board to be  
34 employed by a participating employer in a designated position.

35 15. "Employer" means an agency or department of this state or a  
36 political subdivision of this state which has one or more employees in a  
37 designated position.

38 16. "Fund" means the corrections officer retirement plan fund.

39 17. "Fund manager" means the fund manager of the public safety  
40 personnel retirement system.

41 18. "Juvenile detention officer" means a detention officer responsible  
42 for the direct custodial supervision of juveniles who are detained in a  
43 county juvenile detention center.

- 1           19. "Local board" means the retirement board of the employer that  
2 consists of persons appointed or elected to administer the plan as it applies  
3 to the employer's members in the plan.
- 4           20. "Member" means any employee who meets all of the following  
5 qualifications:
- 6           (a) Who is a full-time paid person employed by a participating  
7 employer in a designated position.
- 8           (b) Who is receiving salary for personal services rendered to a  
9 participating employer or would be receiving salary except for an authorized  
10 leave of absence.
- 11           (c) Whose customary employment is at least forty hours each week and  
12 for more than six months in a calendar year.
- 13           21. "Normal retirement date" means the first day of the calendar month  
14 immediately following an employee's completion of twenty years of service or,  
15 in the case of a dispatcher, twenty-five years of service, the employee's  
16 sixty-second birthday and completion of ten years of service or the month in  
17 which the sum of the employee's age and years of credited service equals  
18 eighty.
- 19           22. "Notice of receipt" means a written document that is issued by the  
20 plan to a participant and alternate payee and that states that the plan has  
21 received a domestic relations order and a request for a determination that  
22 the domestic relations order is a plan approved domestic relations order.
- 23           23. "Participant" means a member who is subject to a domestic relations  
24 order.
- 25           24. "Participant's portion" means benefits that are payable to a  
26 participant pursuant to a plan approved domestic relations order.
- 27           25. "Participating employer" means an employer ~~which~~ THAT the fund  
28 manager has determined to have one or more employees in a designated position  
29 or a county, city, ~~or~~ town ~~which~~ OR DEPARTMENT OF THIS STATE THAT has entered  
30 into a joinder agreement pursuant to section 38-902.
- 31           26. "Pension" means a series of monthly payments by the retirement  
32 plan.
- 33           27. "Personal representative" means the personal representative of a  
34 deceased alternate payee.
- 35           28. "Plan approved domestic relations order" means a domestic relations  
36 order that the plan approves as meeting all the requirements for a plan  
37 approved domestic relations order as otherwise prescribed in this article.
- 38           29. "Probation or surveillance officer" means an officer appointed  
39 pursuant to section 8-203, 12-251 or 12-259 but does not include other  
40 personnel, office assistants or support staff.
- 41           30. "Retired member" means an individual who is being paid a pension on  
42 account of the individual's membership in the retirement plan.
- 43           31. "Retirement" means termination of employment after a member has  
44 fulfilled all requirements for a pension.



1           1. For the state departments, two members who are elected by secret  
2 ballot by members employed by that department in a designated position and  
3 two citizens who are appointed by the governor. The director of each state  
4 department shall appoint one member to the local board who is knowledgeable  
5 in personnel actions. Each state department local board shall elect a  
6 chairman.

7           2. For each participating county, the chairman of the board of  
8 supervisors, or the chairman's designee who is approved by the board of  
9 supervisors, as chairman, two members who are elected by secret ballot by  
10 members employed by the participating county in a designated position and two  
11 citizens, one of whom shall be the head of the merit system if it exists for  
12 the group of members, who are appointed by the chairman of the board of  
13 supervisors with the approval of the board of supervisors.

14           3. For political subdivisions, the mayor or chief elected official or  
15 a designee of the mayor or chief elected official approved by the respective  
16 governing body as chairman, two members elected by secret ballot by members  
17 employed by the appropriate employer and two citizens, one of whom shall be  
18 the head of the merit system if it exists for the group of members, appointed  
19 by the mayor or chief elected official and with the approval of the city  
20 council or governing body of the employer.

21           4. For the judiciary, two members who are elected by secret ballot by  
22 members who are employed as a probation, surveillance or juvenile detention  
23 officer, a designee of the chief justice of the Arizona supreme court and two  
24 citizens, one of whom shall be the head of a human resource department for  
25 the group of members, appointed by the chief justice.

26           B. The appointments and elections of local board members shall take  
27 place with one elective and one appointive board member, as designated by the  
28 appointing authority, serving a term ending two years after the date of  
29 appointment or election and the other local board members serving a term  
30 ending four years after the date of appointment or election. Thereafter,  
31 every second year, and as a vacancy occurs, an office shall be filled for a  
32 term of four years in the same manner as provided in this section.

33           C. Within ten days after the member's appointment or election, each  
34 member of a local board shall take an oath of office that, so far as it  
35 devolves on the member, the member shall diligently and honestly administer  
36 the affairs of the local board and shall not knowingly violate or willingly  
37 permit to be violated any of the provisions of law applicable to the plan.

38           D. Except as limited by subsection E of this section, a local board  
39 shall:

40           1. Decide all questions of eligibility and service credits and  
41 determine the amount, manner and time of payment of any benefit under the  
42 plan.

43           2. Make a determination as to the right of a claimant to a benefit and  
44 afford a claimant or the fund manager, or both, a right to a rehearing on the  
45 original determination.

1           3. Request and receive from the employers and from members information  
2 as is necessary for the proper administration of the plan and action on  
3 claims for benefits and forward the information to the fund manager.  
4           4. Distribute, in the manner the local board determines to be  
5 appropriate, information explaining the plan that is received from the fund  
6 manager.  
7           5. Furnish the employer, the fund manager and the legislature, on  
8 request, with annual reports with respect to the administration of the plan  
9 that are reasonable and appropriate.  
10          6. Appoint a medical board, which is composed of a designated  
11 physician or clinic other than the employer's regular employee or contractor.  
12 If required, the local board may employ other physicians to report on special  
13 cases. The examining physician or clinic shall report the results of  
14 examinations made to the local board, and the secretary of the local board  
15 shall preserve the report as a permanent record.  
16          7. Sue and be sued to effectuate the duties and responsibilities set  
17 forth in this article.  
18          E. A local board has no power to add to, subtract from, modify or  
19 waive any of the terms of the plan, change or add to any benefits provided by  
20 the plan or waive or fail to apply any requirement of eligibility for  
21 membership or benefits under the plan.  
22          F. A local board, from time to time, shall establish and adopt rules  
23 as it deems necessary or desirable for its administration. All rules and  
24 decisions of a local board shall be uniformly and consistently applied to all  
25 members in similar circumstances.  
26          G. An action by a majority vote of the members of a local board that  
27 is not inconsistent with the provisions of the plan is final, conclusive and  
28 binding on all persons affected by it, unless a timely application for a  
29 rehearing or appeal is filed as provided in this article.  
30          H. A claimant or the fund manager may apply for a rehearing before the  
31 local board within the time period prescribed in this subsection. A claimant  
32 or the fund manager shall file an application for rehearing in writing with a  
33 member of the local board or its secretary within sixty days after:  
34           1. The claimant receives notification of the local board's original  
35 action by certified mail, by attending the meeting at which the action is  
36 taken or by receiving benefits from the plan pursuant to the local board's  
37 original action, whichever occurs first.  
38           2. The fund manager receives notification of the local board's  
39 original action by certified mail or by receipt of written directions from  
40 the local board pursuant to its original action, whichever occurs first.  
41          I. A hearing before a local board on a matter remanded from the  
42 superior court is not subject to a rehearing before the local board.  
43          J. Decisions of local boards are subject to judicial review pursuant  
44 to title 12, chapter 7, article 6.

1 K. When making a ruling, determination or calculation, the local board  
2 is entitled to rely on information furnished by the employer, the fund  
3 manager, independent legal counsel or the actuary for the plan.

4 L. Each member of a local board is entitled to one vote. A majority  
5 of the appointed and elected members is necessary for a decision by the  
6 members of a local board at any meeting of the local board.

7 M. The local board shall adopt bylaws as it deems necessary. The  
8 local board shall elect a secretary who may, but need not, be a member of the  
9 local board. The secretary of the local board shall keep a record and  
10 prepare minutes of all meetings, forward the minutes to the fund manager  
11 within forty-five days after each meeting and forward all necessary  
12 communications to the fund manager.

13 N. The employer shall pay the fees of the medical board and of the  
14 local board's legal counsel and all other expenses of the local board  
15 necessary for the administration of the plan at rates and in amounts as the  
16 local board approves.

17 O. The local board shall issue directions to the fund manager  
18 concerning all benefits that are to be paid from the employer's account  
19 pursuant to the provisions of the fund. The local board shall keep on file,  
20 in the manner it deems convenient and proper, all reports from the fund  
21 manager and the actuary.

22 P. The local board and the individual members of the local board are  
23 indemnified from the assets of the fund against any liability arising by  
24 reason of any act, or failure to act, made in good faith pursuant to the  
25 provisions of the plan.

26 Sec. 4. Section 38-902, Arizona Revised Statutes, is amended to read:  
27 38-902. Joinder agreement

28 A. County detention officers and nonuniformed employees of a sheriff's  
29 department whose primary duties require direct contact with inmates may  
30 participate in this plan if the board of supervisors of the county enters  
31 into a joinder agreement with the fund manager to bring such employees into  
32 this plan. The joinder agreement shall be in accordance with the provisions  
33 of this plan. All such employees shall be designated for membership in the  
34 joinder agreement unless written consent to the contrary is obtained from the  
35 fund manager.

36 B. City or town detention officers may participate in this plan if the  
37 governing body of the city or town enters into a joinder agreement with the  
38 fund manager to bring its detention officers into this plan. The joinder  
39 agreement shall be in accordance with the provisions of the plan. The  
40 governing body of the city or town shall designate all detention officers for  
41 membership in the plan unless written consent to the contrary is obtained  
42 from the fund manager.

43 C. Full-time dispatchers may participate in this plan if the governing  
44 body or agency of the employer of an eligible group as defined in  
45 section 38-842 enters into a joinder agreement with the fund manager to bring

1 its full-time dispatchers into this plan. The joinder agreement shall be in  
2 accordance with the provisions of this plan. The governing body or agency of  
3 the employer shall designate all full-time dispatchers for membership in the  
4 plan except for a full-time dispatcher who signs an irrevocable agreement  
5 before the joinder agreement becomes effective electing not to become a  
6 member of the plan. A full-time dispatcher employed by an employer who  
7 becomes eligible for membership in the plan pursuant to this section may  
8 elect to participate in the plan within the deadlines and pursuant to the  
9 terms prescribed for such participation by the fund manager.

10 D. Probation, surveillance and juvenile detention officers may  
11 participate in this plan if the administrative office of the courts enters  
12 into a joinder agreement with the fund manager to bring its probation,  
13 surveillance and juvenile detention officers into this plan. The joinder  
14 agreement shall be in accordance with the provisions of this plan. The  
15 administrative office of the courts shall designate all probation,  
16 surveillance and juvenile detention officers for membership in this plan  
17 unless written consent to the contrary is obtained from the fund manager.

18 E. THE DEPARTMENT OF HEALTH SERVICES PERSONNEL WHO ARE EMPLOYED IN A  
19 DESIGNATED POSITION MAY PARTICIPATE IN THIS PLAN IF THE DIRECTOR OF THE  
20 DEPARTMENT OF HEALTH SERVICES ENTERS INTO A JOINDER AGREEMENT WITH THE FUND  
21 MANAGER TO BRING ITS EMPLOYEES INTO THIS PLAN. THE JOINDER AGREEMENT SHALL  
22 BE IN ACCORDANCE WITH THE PROVISIONS OF THIS PLAN. THE DIRECTOR OF THE  
23 DEPARTMENT OF HEALTH SERVICES SHALL DESIGNATE ALL EMPLOYEES FOR MEMBERSHIP IN  
24 THIS PLAN UNLESS WRITTEN CONSENT TO THE CONTRARY IS OBTAINED FROM THE FUND  
25 MANAGER.

26 ~~E.~~ F. The new employer shall designate the groups of employees who  
27 are eligible to participate in the plan and shall agree to make contributions  
28 each year that are sufficient to meet both the normal cost of a level cost  
29 method attributable to inclusion of its employees and the prescribed interest  
30 on the past service cost for its employees.

31 ~~F.~~ G. Before the execution of any joinder agreement each employer  
32 contemplating participation in the plan shall have an actuarial valuation  
33 made, which is payable by the employer, to determine the estimated cost of  
34 participation in accordance with section 38-894.

35 ~~G.~~ H. Assets under any existing public employee defined benefit  
36 retirement program, except a military retirement program, that are necessary  
37 to equal the actuarial present value of projected benefits to the extent  
38 funded on a market value basis as of the most recent actuarial valuation  
39 attributable to the employer's designated employee group, calculated using  
40 the actuarial methods and assumptions adopted by the existing public employee  
41 retirement program, shall be transferred from the program to this fund no  
42 later than sixty days after the employer's effective date. That portion of  
43 the transferred assets that is attributable to employee contributions,  
44 including interest credits, shall be properly allocated to each affected  
45 employee of the employer and credited to the employee's initial accumulated

1 contributions in accordance with a schedule furnished by the employer to the  
2 fund manager.

3 I. IF AN EMPLOYEE HAS ELECTED TO PURCHASE CREDITED SERVICE THROUGH A  
4 PAYROLL DEDUCTION AGREEMENT IN ANY DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN  
5 OF THIS STATE AND AT THE TIME OF THE JOINDER AGREEMENT TRANSFERS TO THE  
6 CORRECTIONS OFFICER RETIREMENT PLAN, THE OTHER DEFINED BENEFIT RETIREMENT  
7 SYSTEM OR PLAN SHALL TRANSFER TO THE CORRECTIONS OFFICER RETIREMENT PLAN,  
8 BOTH ON AN ANNUAL BASIS AND UPON NOTIFICATION OF TERMINATION OF THE MEMBER'S  
9 EMPLOYMENT, THE TOTAL OF ANY INTEREST AND PRINCIPAL PAID BY THE TRANSFERRED  
10 MEMBER FOR THE PURCHASE OF CREDITED SERVICE SINCE THE DATE OF THE MOST RECENT  
11 TRANSFER. IF CREDITED SERVICE THAT IS TRANSFERRED FROM THE EMPLOYEE'S  
12 PREVIOUS DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN OF THIS STATE DOES NOT  
13 FULLY COVER THE COST OF THE BENEFITS ACCRUED RELATIVE TO THE CREDITED SERVICE  
14 AS COMPUTED PURSUANT TO SECTION 38-922, THE EMPLOYER IS LIABLE FOR ANY  
15 UNFUNDED LIABILITIES.

16 Sec. 5. Repeal  
17 Laws 2007, chapter 261, section 17 is repealed.

18 Sec. 6. Joinder agreement; transfer of credited service to  
19 corrections officer retirement plan; election to  
20 remain in existing retirement system

21 Notwithstanding any other law, if the director of the department of  
22 health services enters into a joinder agreement with the fund manager to  
23 bring its eligible employees into the corrections officer retirement plan,  
24 all credited service from any other Arizona defined benefit state retirement  
25 system or plan shall be transferred to the corrections officer retirement  
26 plan unless the employee makes an irrevocable election to remain in the  
27 employee's existing state retirement system or plan.

28 Sec. 7. Conditional enactment

29 Section 38-881, Arizona Revised Statutes, as amended by Laws 2007,  
30 chapter 87, section 6 and this act, becomes effective on the date prescribed  
31 in Laws 2005, chapter 324, section 2 but only on the occurrence of the  
32 condition prescribed by Laws 2005, chapter 324, section 2.